

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TERRANCE PUGH,

Plaintiff,

Case Number: 2:14-CV-11428

v.

HONORABLE GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE

KELLY HOLDEN-SELBY, ET AL.,

Defendants.

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ORDER OF SUMMARY DISMISSAL WITHOUT PREJUDICE

Plaintiff Terrance Pugh is in state custody at the Carson City Correctional Facility in Carson City, Michigan. He has filed a civil rights complaint pursuant to 42 U.S.C. § 1983. The Court finds that the complaint is duplicative of another case filed in this Court and, therefore, dismisses the complaint without prejudice.

On May 31, 2012, Plaintiff filed a civil rights complaint complaining, that, contrary to medical orders, he was assigned an upper level bunk and, as a result, fell, injuring his back and breaking his foot. He also claimed that defendants failed to provide him with a functioning, suitable wheelchair. That matter is assigned to the undersigned District Judge and remains pending. *See Pugh v. Holden-Selby*, No. 2:12-cv-12357. Subsequently, Plaintiff filed a second complaint, which was assigned to the Honorable Sean F. Cox. The second complaint was reassigned to the undersigned District Judge, pursuant to Local Rule 83.11, as a companion to the earlier-filed case, number 2:12-cv-12357. *See Order Regarding Reassignment of Companion Case*, Apr. 28, 2008. The second complaint names three defendants, concerns Plaintiff's assignment to an upper level bunk,

subsequent injury, and the inadequacy of treatment for his injury.

“[A] suit is duplicative if the claims, parties, and available relief do not significantly differ between the two actions.” *Serlin v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir.1993) (internal quotation marks and citations omitted). This complaint names three defendants named in the first complaint and concerns the same actions as the first complaint. Therefore, the instant complaint is duplicative and shall be dismissed. *Accord Scott v. Burress*, No. 2:09-cv-10916, 2009 WL 891695, *1 (E.D. Mich. March 31, 2009) (dismissing later-filed prisoner civil rights complaint because it was duplicative of earlier-filed complaint).

Accordingly, IT IS ORDERED that the complaint [dkt. #1] is DISMISSED WITHOUT PREJUDICE.

/s/Gershwin A Drain
GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE

DATED: August 8, 2014